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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,072	09/27/2005	Henk Kole	NL030362US	4351
24737 7590 05/09/2007 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER MOORE, MARGARET G.	
			ART UNIT 1712	PAPER NUMBER
			MAIL DATE 05/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/551,072	Applicant(s) KOLE ET AL.	
	Examiner Margaret G. Moore	Art Unit 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 8, 11 to 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 to 8, 11 to 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1712

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 to 3, 5, 8, 11 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Schiestel et al.

4. Claims 4, 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schiestel et al.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schiestel et al. in view of Shoup et al.

6. Each of these rejections rely on the rationale noted in the previous office action and as such this will not be repeated. In an effort to distinguish the claims from the prior art applicants have amended the claims such that the coating composition is a hydrolytically condensed organosiloxane sol-gel and that the composition provides iodine resistance. Applicants state that Schiestel et al. do not disclose an iodine resistant coating made of a hydrolytically condensed organosilane sol-gel composition for providing stain resistance from iodine solutions.

In response, the Examiner notes that Schiestel et al. do provide a coating made of a hydrolytically condensed organosilane sol-gel composition. This composition was noted in the previous office action but applicants' attention is again directed to para. 14 and on. Note paragraph 41 as well which refers to the sol-gel method.

Schiestel et al. do not specifically mention iodine resistance; however, products of identical chemical composition can not have mutually exclusive properties. A chemical composition and its properties are inseparable. Therefore, if the prior art teaches the identical chemical structure, the property applicants disclose and/or claim are necessarily present. In addition, the discovery of a new property does not overcome anticipation when the claimed composition is known. While silent to iodine resistance, this does not distinguish the claims from the prior art since that which is actually claimed, a coated medical apparatus having a particular coating composition, is the same as that taught by the prior art. As such these rejections are maintained.

7. Applicants' amendment to claims 14 and 15 have necessitated the following new grounds of rejection.

8. Claims 13 to 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havey et al.

These claims are generally drawn to medical equipment. Due to the breadth of this phrase, the lenses in Havey et al. can be considered medical equipment. See for instance column 11, lines 60 to 62.

Havey et al. teach a coating composition the contains a mixture of hydrolysis and condensation products of an epoxy functional silane, tetrafunctional silane and an acid. Throughout the specification Havey et al. teach each of the necessary components for the coating composition in claims 14 and 15.

The working examples use deionized water.

Column 6, line 39, teaches itaconic acid.

Column 4, line 50, teaches ethanol.

Column 6, line 8, teaches tetraethoxysilane.

Column 5, line 49, teaches glycidoxyparyl trimethoxysilane.

Column 8, line 50 and on, teaches silica dispersions. The Examiner notes that the matting agent used in applicants' specification is silica and as such the silica on column 8 meets this requirement as well.

Column 10, lines 50 to 55, teach leveling or flow agents which correspond to the claimed wetting agent.

See for instance the various working examples. Particularly note Examples 14 and 15. These compositions include itaconic acid, tetraethoxysilane, glycidoxyparyl trimethoxysilane and a silica dispersion. Since these examples are based on the procedure of Example 1, the water therein will be deionized water. Thus this differs from the composition used in claim 14 in that 1) it does not use ethyl alcohol and 2) it does not contain a wetting agent.

With regard to this first difference note that column 4, lines 45 and on, teach that various solvents can be used in an equivalent manner. As noted supra, this specifically teaches that ethanol can be used as a useful and functional solvent in this composition. One having ordinary skill in the art would have found the use of ethanol rather than the functionally equivalent solvent propylene glycol methyl ether used in these examples to have been obvious.

With regard to the second difference, column 10, lines 30 and on, teach the addition of leveling or flow control agents in an effort more evenly spread or level the composition therein. As such the skilled artisan would have been motivated to include such a compound to the compositions in Examples 14 and 15 in an effort to obtain the known benefits and properties thereof.

On the other hand note Examples 7 and 8 which do include a leveling agent, but differ from that claimed in that 1) they also use a different solvent and 2) they do not include a silica dispersion. The obviousness of the difference 1) has been addressed supra. The addition of silica to these compositions would have been obvious in view of the totality of the teachings in Havey et al. which teaches the addition of silica to the compositions.

As noted above, the matting agent used in the specification is a silica particulate. Thus the silica added in Havey et al. meets this requirement in claim 15.

In this manner the coating compositions claimed are rendered obvious by the teachings in Havey et al. Since ophthalmic lenses can be considered medical devices, the instant claims are rendered obvious.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

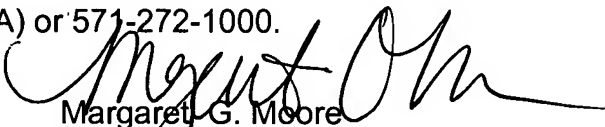
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Margaret G. Moore
Primary Examiner
Art Unit 1712

mgm
5/6/07